

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 1365 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ASHABEN NAMDEV KHANDESHI

Versus

YUSUFBHAI MUSAJI GAJIA

Appearance:

MR DR DHIMAR for Petitioners
MR HJ NANAVATI for Respondent No. 1
NOTICE SERVED for Respondent No. 4

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 11/02/99

ORAL JUDGEMENT

RULE.

By the impugned order dated 13.7.1998, the Joint Civil Judge (JD.) Bardoli has rejected the defendant's application for amendment in the written statement on the ground that it will change the nature of the suit and further certain admissions made in the written statements

are sought to be withdrawn which cannot be permitted.

2. I have heard the learned Advocates for the parties and I have perused the english translation of the plaint, the written statement and the application for amendment. Having read the aforesaid pleadings, I do not find any admission which is sought to be withdrawn. In the written statement speciic stand has been taken that Balaji Namdev is in the continued possession of the suit premises as son of Shantaben. By way of written statement, clarification is made indicating the relations between Shantaben, Namdev and Balaji. In my view, it does not change the nature of the suit. In fact by way of amendment, certain clarification has been made with respect to the plea taken in the written statement. Thus, in my view, the learned Judge has committed material illegality in exercise of jurisdiction in not allowing the amendment in the written statement.

3. In view of the aforesaid, this CRA is allowed and the impugned order dated 13.7.1998 passed by the Joint Civil Judge (J.D.), Bardoli rejecting the petitioner's application Exh.57 is quashed and set aside. The petitioner's application Exh.57 is granted on a cost of Rs.200/-.

Rule made absolute. The petitioner may file amended written statement latest by 15 days from the date of receipt of the writ.

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msp.